



## DEPARTMENT OF TRANSPORTATION

[Docket No: PHMSA-2022-0060]

### **Pipeline Safety: Information Collection Activities: Voluntary Adoption of API RP 1173 for Gas Distribution Systems**

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, this notice announces that the information collection request abstracted below is being forwarded to the Office of Management and Budget (OMB) for review and comment. A *Federal Register* notice with a 60-day comment period soliciting comments on the information collections was published on September 6, 2022.

**DATES:** Interested persons are invited to submit comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** The public is invited to submit comments regarding these information collection requests, including suggestions for reducing the burden, to Office of Management and Budget, Attention: Desk Officer for the Office of the Secretary of Transportation, 725 17th Street, NW, Washington, DC 20503. Comments can also be submitted electronically at [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain).

**FOR FURTHER INFORMATION CONTACT:** Angela Hill by telephone at 202-680-2034 or by email at [angela.hill@dot.gov](mailto:angela.hill@dot.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

Title 5, Code of Federal Regulations (CFR) section 1320.8(d), requires the Pipeline and Hazardous Materials Safety Administration (PHMSA) to provide interested members of the public and affected agencies the opportunity to comment on information collection and

recordkeeping requests before they are submitted to OMB for approval. In accordance with this regulation, on September 6, 2022, PHMSA published a *Federal Register* notice (87 FR 54590) with a 60-day comment period soliciting comments on its intent to request OMB's approval of a one-time information collection titled: "Voluntary Adoption of API RP 1173 for Gas Distribution Systems." The proposed information collection would provide the data necessary to prepare the report required by section 205 of the Protecting Our Infrastructure of Pipelines and Enhancing Safety (PIPES) Act of 2020 for gas distribution systems.

During the 60-day comment period, PHMSA received comments from the Pipeline Safety Management Systems (PSMS) Industry Team, Atmos Energy Corporation (Atmos Energy), American Gas Association (AGA), Distribution Contractors Association (DCA), Natural Gas SMS Collaborative, NiSource Inc., MDU Utilities Group (MDUG), American Public Gas Association (APGA), Southwest Gas Corporation, and CMS Energy Corporation, a parent holding company of Consumers Energy Company. Commenters were overall supportive of the intent of section 205. Note AGA, DCA and APGA are also members of the PSMS Industry Team. Similarly, the operator companies may be members of one or more of the other entities commenting. In addition to agreeing with comments of the PSMS Industry Team, AGA, DCA and APGA and some operators provided additional comments unique to their respective associations. Where AGA, DCA, APGA, or operator comments were in-line with the PSMS Industry Team, only the PSMS team comment is discussed. If AGA, DCA, APGA, or individual operator companies included unique comments in their separate responses, they are noted accordingly. Overall, PHMSA largely incorporated the PSMS Industry Team's comments. The comments and PHMSA's responses, organized by topic, are summarized and addressed below.

## II. Comment Summary

A summary of comments and PHMSA responses are detailed below.

### A. Estimated Burden and Cost Related Questions

Comment: The PSMS Industry Team stated that the information collection as written in the 60-day notice was overly complicated, burdensome, and confusing. The PSMS Industry Team stated the burden required to complete the questionnaire as drafted would be extensive, far exceeding the one-hour allocation outlined in the PHMSA 60-day notice. The PSMS Industry Team recommended that PHMSA utilize the existing annual survey already in place and facilitated by the PSMS Industry Team rather than creating new or disparate collection efforts. The PSMS Industry Team did not give specific estimates in the docket comments of burden hours to complete the draft form proposed in the 60-day notice or modified version but specified that its recommendations would meet the intent of section 205 while reducing the burden on industry. PHMSA reached out to the PSMS Industry Team by email for further input on burden estimates. In response, the PSMS Industry Team specified that the PHMSA proposal as written in the 60-day notice could take about 2-4 hours per SMS program element as it would require individual operator employees to coordinate with other departments or groups in the organization to determine work burdens, staff hours worked or monetary costs. Based on their estimate of 2-4 hours per element, the estimated burden for PHMSA's proposed GD-SMS-2022 Form in the 60-day notice would be 26,280-52,560 hours (2-4 hours per element x 10 elements x 1,314 responses). In contrast, the PSMS Industry Team specified that a version that aligns more with their survey and removes the detailed cost and labor hour questions could be more on the order of 3 hours to complete with the rationale that an individual could answer most of the questions without coordination or discussion with other internal work groups on cost or hours by SMS Program Element. Based on this estimate, the PSMS Industry Team's survey would result in an estimated burden of about 3,942 hours (1,314 responses x 3 hours).

For costs, the PSMS Industry Team stated that the proposed GD-SMS-2022 Form in the 60-day notice requests implementation percentages, costs, and manpower hours for each Program Element in RP 1173 instead of assessing steps in the SMS implementation journey as outlined in the Pipeline SMS Maturity Model. The PSMS Industry Team recommended that the

questionnaire solicit information on the number of distribution operators who have made leadership commitments, conducted a gap analysis, identified gaps or improvement opportunities, prioritized gap closures, actively participated in external sharing events, developed a management review process and conducted a review, assessed safety culture, and evaluated SMS maturity. The PSMS Industry Team specified that each of these actions are steps in the implementation journey, increasing an operator's SMS maturity from basic RP 1173 conformance to system effectiveness. The PSMS Industry Team's Annual Survey asks operators to detail their level of participation in these discrete steps and has tracked responses since 2017. The PSMS Industry Team stated that PHMSA's draft form in the 60-day notice only sought to quantify the costs or hours to implement these elements, ignoring the more complex questions of implementation progress, effectiveness, and maturity. Further, the PSMS Industry Team stated that PHMSA's draft form does not recognize that for many operators that have implemented RP 1173, parsing out these implementation costs and effort hours specific to this standard is not realistic. The PSMS Industry Team indicated that as Pipeline SMS implementation is embedded in every aspect of daily operations, attributing specific cost figures to individual program elements is infeasible, impractical, and should be removed.

Atmos Energy stated that Questions 8b and 8c suggest that Pipeline SMS is "implemented" at a certain point in time and has a definite, discernible dollar amount that can be quantified and amassed for that implementation. Atmos Energy further stated that even if the data could be accurately captured, it would not provide a meaningful company comparison for PHMSA.

Atmos Energy noted that the amount of time and costs that a company has expended and is still expending on instituting and continuing to develop PSMS would be dependent on the results of a gap analysis against the company's existing safety culture, the size and complexity of the organization, and time and pace at which the organization began its Pipeline SMS journey.

Atmos Energy also stated that the questions and instructions do not provide guidance as to what factors or components should be included or excluded in these calculations, which would leave

that determination up to the individual operator, only further precluding the gathering of usable comparative data. In summary, Atmos Energy stated that tracking and reporting quantifiable implementation efforts and costs do not align with the continuous improvement and ongoing development tenants of Pipeline SMS nor do they accurately reflect a company's safety culture or priorities.

AGA stated that identifying implementation costs and hours specific to each element is not realistic for many large, multi-state operators. Like the PSMS Industry Team's comments, AGA recommended capturing data outlined in the Pipeline SMS Maturity Model. Like Atmos Energy's comment, AGA specified concern regarding whether the information being requested in Questions 8 and 9 could be accurately captured, and whether it would provide a meaningful operator comparison. AGA stated that the proposed form failed to define "implementation" and asking operators to disclose when elements were "fully implemented" or "complete" does not reflect the guiding principles of SMS implementation or continuous improvement.

The Natural Gas SMS Collaborative stated that direct cost figures do not effectively represent the efforts an operator may have put forth in support of safety management implementation and recommended PHMSA consider utilizing measures of maturity to effectively represent the operators' level of commitment and investment in Pipeline SMS.

NiSource commented that an effective management system serves as the foundation of an operating model and NiSource experiences a distribution of costs across operations that may be prioritized based on their SMS Processes and Procedures. NiSource noted that these costs are spread and shared across the organization. NiSource provided some specific recommendations as alternatives if PHMSA chose not to adopt industry comment recommendations through the PSMS Industry Team and the Natural Gas SMS Collaborative, but otherwise supported the comments and alternatives proposed by those entities.

MDUG, which consisted of at least four Operator Identification Numbers (OpIDs) and over 1 million customers served at the time of the 60-day notice comment submittal, stated that it would not be able to accurately assess either the number of staff hours or the implementation costs by element. MDUG proposed removing question 8b (associated with staff hours) in the 60-day version and proposed the following in place of 8c (associated with costs): “Prior to the decision to implement API RP 1173, did your organization do a cost analysis of the impact of internal or external resources?”

PHMSA Response: PHMSA would like to thank all the entities for taking the time to submit comments. Regarding concerns with burden and cost, PHMSA has largely accepted the alternatives proposed by the commenters. For example, implementing an SMS program based on API RP 1173 requires the operator to maintain procedures for Management of Change (MOC) to be applied to significant technology, equipment, procedural, and organizational changes. Section 204 of the PIPES Act directs PHMSA to update regulations to ensure that gas distribution operators include a detailed MOC process in their procedural manual for operations, maintenance, and emergencies. The regulation update will have to also address emergency response plans and record keeping requirements which are two of elements of API RP 1173. However, after considering the comments, PHMSA agrees that the alternatives proposed that align more closely with the industry’s annual survey would still provide the information needed to complete the section 205 Report to Congress.

Regarding the PSMS Industry Team’s recommendation that PHMSA utilize the existing annual survey facilitated by the Pipeline SMS team, PHMSA believes that it must proceed with the information collection to better support the preparation of the report required by section 205. However, industry is welcome to provide data from industry developed surveys.

Given that PHMSA has revised the questions to closely align with the PSMS Industry Team recommendations, PHMSA has adjusted the estimated annual burden hours to reflect the input provided by the PSMS Industry Team.

PHMSA appreciates NiSource's and the Natural Gas Collective's suggestions for alternate questions if PHMSA chose not to adopt certain industry recommendations submitted in their comments. Since PHMSA largely incorporated the PSMS Industry Team recommendations, PHMSA did not incorporate the alternatives provided by NiSource. As part of the PSMS Industry Team comments and alternative questions that PHMSA incorporates, there is a question that touches on SMS maturity level. More specifically, question 16 in the 30-day Notice asks, "Are you maintaining a method to evaluate PSMS maturity?" In its comments, NiSource raised some interesting nuances that need to be considered for larger and complex operators just as APGA raised some interesting nuances for very small operators described later in this notice. PHMSA believes, by incorporating the alternative questions in the form, the necessary information can be collected from distribution operators of all sizes.

PHMSA accommodated MDUG's suggestion to remove question 8b associated with staff hours by incorporating the PSMS Industry Team's suggested questions. PHMSA also accommodated MDUG's concern with question 8c associated with costs by incorporating the PSMS Industry Team's suggested questions. More specifically, the new question 8 asks "Have you performed a gap assessment or other comparable exercise to compare your pipeline safety and safety culture efforts to the concepts of safety management systems described in API RP 1173?" The follow-up question 9 asks about barriers preventing an operator from implementing an SMS program. Among the options for barriers/challenges is financial considerations.

#### B. Suggestions to Enhance the Quality, Utility, and Clarity of the Collected Information

PHMSA also received comments that made general suggestions to enhance the overall quality and clarity of the collection information. Some aspects are included in the comments above with others described below.

*1. Refine questions to better track progress and feasibility in alignment with RP 1173 principles.*

Comments: The PSMS Industry Team and other commenters noted confusion with some of the terms used such as question 8 asking about element implementation and question 9 asking in what year the SMS program was fully implemented with elements selected in 8a. Commenters suggested that either PHMSA include the agency's definition of terms "fully implemented" and "initiated" to support more accurate response or adjust questions in a way to ask operators if they have completed steps along the implementation journey, as reflected in the PSMS team survey, or their perceived maturity towards the PSMS Maturity Model.

PHMSA Response: PHMSA would like to thank the commenters and SMS is a continuous improvement journey. The concept of an element being initiated was to indicate when it started in the Plan-Do-Check-Act (PDCA) cycle for a given operator. Fully implemented was meant to indicate when it at least made it through one PDCA cycle. However, PHMSA agrees fully implemented can still be confusing. PHMSA has modified the form to align with the questions recommended by the PSMS Industry Team.

*2. Feasibility of the form and API RP 1173 for very small operators*

Comment: APGA discussed the feasibility of API 1173 and Safety Management Systems in general for very small operators. APGA proposed a very small operator be defined as a pipeline operator that:

- (a) Serves less than 20,000 natural gas distribution customers; and
- (b) Has total deliveries less than 10 billion cubic feet (BCF) annually.



APGA commented that the principles of API RP 1173 are applicable to pipeline operators of all sizes. However, APGA stated that implementing all the prescriptive requirements and practices, as currently written, is not feasible for very small operators.

For more context, APGA noted the following: A natural gas utility serving around 20,000 services typically employs less than 50 individuals, including employees who offer customer support for billing, office administrators, accountants, human resources managers, supervisors, and field personnel. Ultimately a utility of this size will only have approximately 10 to 15 individuals working on or near the pipelines. There are 970 natural gas operators that operate less than 20,000 services, almost all of which are publicly owned natural gas systems. These natural gas distribution operators are committed to incorporating safety management system principles into their daily operations but believe the requirements and recommendations of API RP 1173 PSMS were not written in a truly scalable way for operators of their size.

APGA further commented that in the Annual Industry PSMS Survey, all pipeline operators are asked what barriers are in place that are preventing their voluntary adoption of API RP 1173. APGA stated that staffing, manpower, resources, and time are the leading reasons provided by those not yet implementing API RP 1173, such as those that would meet the “very small operator” designation. APGA commented that some operators also express frustration in understanding the justification for their implementation of API RP 1173. APGA noted that these public gas systems serve relatively few customers and operate minimal pipeline mileage. APGA stated that often their systems are newer, fully constructed of plastic pipe, and have relatively few leaks. APGA further stated that for them, the justification for developing a full PSMS program per API RP 1173 seems both unrealistic and unnecessary to further the safety of their system.

APGA also noted that it has tools to assist small operators in understanding, adopting, and implementing pipeline safety management practices which are explained further in their

comments posted in the docket. APGA stated that translating the intent of API RP 1173 in a manner that is relatable and actionable for “very small operators” is important for voluntary adoption of safety management systems principles. APGA noted their support of the PSMS Industry Team.

APGA did not comment specifically on changes to the form that can best accommodate very small operators other than agreeing with the PSMS Industry Team comments on realigning the questions in a way that focus first on the principles of SMS in general before jumping into whether operators are aware of and specifically following elements of API RP 1173.

PHMSA Response: PHMSA thanks APGA for the comments and has decided to realign the questions in line with PSMS Industry Team comments. As PHMSA noted in the 60-day notice, while the act mandate pointed specifically to API RP 1173, there are other variations available and implemented, including a customized SMS.

### *3. Operator name vs. Operator ID*

Comment: Atmos Energy commented that Question 1 directs operators to respond separately for each OpID on record. Atmos Energy stated that large multistate operators would have to file multiple submissions from different operator IDs assigned for distribution and transmission facilities and would further result in repetitive responses for PHMSA to review. Atmos Energy noted that they have eleven OpIDs, which would require the completion of eleven forms, with much of the information across those forms being repetitive. Atmos Energy requested that this question be limited to operator name as opposed to operator identification.

PHMSA Response: PHMSA thanks Atmos Energy for the comment. While PHMSA acknowledges some operators have multiple OpIDs, limiting to just an operator name would cause challenges for data collection and data accuracy. For instance, it may not always be clear that an operator submission covers all OpIDs associated with that operator. Also, if there are any variations across OpIDs in any of the questions, PHMSA is interested in identifying and learning

about those differences to inform our report to Congress. For example, number of customers served will likely be different for each OpID. Therefore, PHMSA is still requesting a separate report for each OpID.

#### *4. Feasibility of Implementation*

Comment: Atmos Energy commented that question 13 in the 60-day version of the form appeared to ask companies to provide a justification for their decision not to implement PSMS. Question 13 specifically asked “If you do not plan on implementing an SMS program, what are the primary reasons for not implementing?” Atmos Energy noted its commitment to the implementation of PSMS, while specifying that they recognize that PSMS, through RP 1173, is intended to serve as guidance for operators and its adoption is voluntary. Atmos Energy also noted if the intent of the question is aimed at determining what components may presently act as potential obstacles to an organization’s voluntary adoption of PSMS, Atmos Energy requests that PHMSA clarify that intent in the question.

MDUG proposed removing question 10 completely. Question 10 asked “If you have not implemented an SMS program, a) are you currently in the process of implementing one and b) how much progress have you made with implementing the 10 or more (if applicable) elements of the program?” with a yes and no answer, a percentage of implementing by element. MDUG suggested adding an additional question after 15: “If you have used the API maturity scale to assess your SMS program, what is your overall score (on a scale of 1-5)?”

PHMSA Response: The original purpose of the question was to help provide input on the number of companies implementing a pipeline SMS and the feasibility of an operator of a natural gas distribution company to implement a pipeline SMS in line with the PIPES Act 2020 section 205 language. PHMSA modified this question to align with the PSMS Industry Team recommendation. The question now asks “What barriers are preventing you from implementing

an SMS program per API RP 1173 or other SMS? (Select all that apply).” The question now appears as question 9 in the 30-day notice version.

It should be noted that PHMSA added an NA (not applicable) option to the Industry Team recommended version to indicate if an operator is in the process of implementing SMS as part of the response to the new question 9. The Industry Team’s recommended version of question 8 “Have you performed a gap assessment or other comparable exercise to compare your pipeline safety and safety culture efforts to the concepts of safety management systems described in API RP 1173?” suggested to skip question 9 if the answer was yes. However, PHMSA believes question 9 would collect data on whether an operator performed an initial gap assessment. PHMSA added some language in the instructions to make the intent clearer.

PHMSA believes it accommodated MDUG’s request to remove question 10 by incorporating the PSMS Industry Team’s version of the questions. PHMSA did not specifically add MDUG’s suggested question on maturity level score but did include a question on whether a submitter is maintaining a method to evaluate PSMS maturity in line with the PSMS Industry Team’s version of the questions.

#### *5. Comments related to damage prevention and the potential of Geographic information systems (GIS) Mapping*

Comment: The Distribution Contractors Association (DCA) noted that PHMSA solicited comments on “additional information that would be appropriate to collect to inform the reduction in risk to people, property, and the environment due to excavation damages.” DCA commented that accurate mapping of underground utility pipelines has become a challenging and difficult task, and rather than restricting a user to limited features on a static map, GIS mapping allows for viewing customizable combinations of data layers in a single dynamic tool. DCA specified that underground facility damage prevention practices are more critical than ever particularly in light of the 2021 Infrastructure Investment and Jobs Act and notes that encouraging the use of readily

available GIS mapping technologies is clearly an effective way to ensure for the accurate locating of underground facilities. DCA commented that as a part of PHMSA's information collection effort, gathering as much information as possible regarding the current use of GIS mapping by pipeline operators would be appropriate when considering ways to reduce risks associated with excavation activities.

PHMSA Response: PHMSA would like to thank the DCA for being a member of the PSMS Industry Team and providing comments on the importance of accurate mapping, the use of GIS, and in general following underground facility damage prevention laws and best practices. While PHMSA agrees with DCA's comments and is engaged in initiatives for damage prevention through prevention through organizations such as the Common Ground Alliance. That portion of the 60-day information collection request was partly a carryover of language from other information collection efforts and has been removed from this 30-day notice to avoid confusion. PHMSA still encourages all operators and contractors to follow damage prevention laws and best practices. As it relates to API 1173, PHMSA also commends API for developing contractor guidance as a complement to API RP 1173. For more information, see <https://pipelinesms.org/contractor-guidance/>. If there are any aspects of GIS mapping or contractor engagement in general that could be useful to convey in the process of this information collection, operators are welcome to include those aspects.

### III. Summary of Impacted Collections

Section 1320.8(d), title 5, Code of Federal Regulations, requires PHMSA to provide interested members of the public and affected entities an opportunity to comment on information collection and recordkeeping requests. This notice identifies a one-time information collection that PHMSA will submit to OMB for approval.

The following information is provided for this information collection: (1) Title of the information collection; (2) OMB control number; (3) Current expiration date; (4) Type of

request; (5) Abstract of the information collection activity; (6) Description of affected public; (7) Estimate of total annual reporting and recordkeeping burden; and (8) Frequency of collection.

PHMSA requests comments on the following information:

Title: Voluntary Adoption of API RP 1173 for Gas Distribution Systems.

OMB Control Number: Will request from OMB.

Current Expiration Date: TBD.

Type of Request: Approval of an information collection.

Abstract: This information collection request covers the collection of data from operators of natural gas distribution pipeline systems to ascertain how many gas distribution operators are voluntarily implementing API RP 1173, progress being made for those that have implemented or are implementing a pipeline SMS, and feasibility to implement a pipeline SMS based on size of the operator. PHMSA proposes collecting this information via the proposed GD-SMS-2022 form. PHMSA estimates that it will take each respondent approximately 3 hours to complete the proposed form.

Affected Public: Natural gas distribution pipeline operators.

Annual Burden:

Estimated number of responses: 1,314.

Estimated annual burden hours: 3,942.

Frequency of Collection: Once.

Comments are invited on:

(a) The need for this information collections for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(b) The accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended, and 49 CFR 1.48.

Issued in Washington, DC, on April 5, 2023, under authority delegated in 49 CFR 1.97.

**Alan K. Mayberry,**

*Associate Administrator for Pipeline Safety.*

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